

## § 103.31

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and testimony of a Customs employee if:

(1) Production of the demanded documents or testimony, in the judgment of the Chief Counsel, are appropriate under the factors specified in § 103.23(a) of this subpart; and

(2) None of the factors specified in § 103.23(b) of this subpart exist with respect to the demanded documents or testimony.

(e) *Limitations on the scope of authorized disclosure.* (1) The Chief Counsel shall authorize the disclosure of Customs information by a Customs employee without further authorization from Customs officials whenever possible, provided that:

(i) If necessary, Counsel has consulted with the originating component regarding disclosure of the information demanded;

(ii) There is no objection from the originating component to the disclosure of the information demanded; and

(iii) Counsel has sought to limit the demand for information to that which would be consistent with the factors specified in § 103.23 of this part.

(2) In the case of an objection by the originating component, the Chief Counsel shall make the disclosure determination.

### **Subpart C—Other Information Subject to Restricted Access**

#### **§ 103.31 Information on vessel manifests and summary statistical reports.**

(a) *Disclosure to members of the press.* Accredited representatives of the press, including newspapers, commercial magazines, trade journals, and similar publications shall be permitted to examine vessel manifests and summary statistical reports of imports and exports and to copy therefrom for publication information and data subject to the following rules:

(1) Of the information and data appearing on outward manifests, only the name and address of the shipper, general character of the cargo, number of packages and gross weight, name of vessel or carrier, port of exit, port of destination, and country of destination may be copied and published. However, if the Secretary of the Treasury makes

an affirmative finding on a shipment-by-shipment basis that disclosure of the above information is likely to pose a threat of personal injury or property damage, that information shall not be disclosed to the public.

(2) Commercial or financial information, such as the names of the consignees, and marks and numbers shall not be copied from outward manifests or any other papers.

(3) All the information appearing on the cargo declaration (Customs Form 1302) of the inward vessel manifest may be copied and published. However, if the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that the disclosure of the information contained on the cargo declaration is likely to pose a threat of personal injury or property damage, that information shall not be disclosed to the press.

(b) *Review of data.* All copies and notations from inward or outward manifests shall be submitted for examination by a Customs officer designated for that purpose.

(c) *Disclosure to the public.* Members of the public shall not be permitted to examine vessel manifests. However, they may request and obtain from Customs, information from vessel manifests, subject to the rules set forth in paragraph (a) of this section. However, importers and exporters, or their duly authorized brokers, attorneys, or agents may be permitted to examine manifests with respect to any consignment of goods in which they have a proper and legal interest as principal or agent, but shall not be permitted to make any general examination of manifests or make any copies or notations from them except with reference to the particular importation or exportation in which they have a proper and legal interest.

(d) *Confidential treatment—(1) Inward manifest.* An importer or consignee may request confidential treatment of its name and address contained in inward manifests, to include identifying marks and numbers. In addition, an importer or consignee may request confidential treatment of the name and address of the shipper or shippers to such importer or consignee by using the following procedure:

(i) An importer or consignee, or authorized employee, attorney or official of the importer or consignee, must submit a certification (as described in paragraph (d)(1)(ii) of this section) claiming confidential treatment of its name and address. The name and address of an importer or consignee includes marks and numbers which reveal the name and address of the importer or consignee. An importer or consignee may file a certification requesting confidentiality for all its shippers.

(ii) There is no prescribed format for a certification. However, the certification shall include the importer's or consignee's Internal Revenue Service Employer Number, if available. There is no requirement to provide sufficient facts to support the conclusion that the disclosure of the names and addresses would likely cause substantial harm to the competitive position of the importer or consignee.

(iii) The certification must be submitted to the Disclosure Law Officer, Headquarters, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

(iv) Each initial certification will be valid for a period of two years from the date of receipt. Renewal certifications should be submitted to the Disclosure Law Officer at least 60 days prior to the expiration of the current certification. Information so certified may be copied, but not published, by the press during the effective period of the certification. An importer or consignee shall be given written notification by Customs of the receipt of its certification of confidentiality.

(2) *Outward manifest.* If a shipper wishes to request confidential treatment by Customs of the shipper's name and address contained in an outward manifest, the following procedure shall be followed:

(i) A shipper, or authorized employee or official of the shipper, must submit a certification claiming confidential treatment of the shipper's name and address. The certification shall include the shipper's Internal Revenue Service Employer Number, if available.

(ii) There is no prescribed format for a certification.

(iii) The certification must be submitted to the Disclosure Law Officer, Headquarters, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

(iv) Each certification will be valid for a period of two (2) years from the date of its approval.

(3) If any individual shall abuse the privilege granted him to examining inward and outward manifests or shall make any improper use of any information or data obtained from such manifests or other papers filed in the customhouse, both he and the party or publication which he represents shall thereafter be denied access to such papers.

(e) *Availability of manifest data on CD-ROMS—(1) Availability.* Manifest data acquired from the Automated Manifest System (AMS) is available to interested members of the public on CD-ROMS. This data, compiled daily, will contain all manifest transactions made on the nationwide system within the last 24 hour period. Data for which parties have requested confidential treatment in accordance with paragraph (d) of this section will not be included on the CD-ROMS. These CD-ROMS may be purchased at the government's production cost. CD-ROMS are available for specific days or on a subscription basis.

(2) *Requests and subscriptions.* Requests for CD-ROMS must be in writing and submitted to: U.S. Customs and Border Protection, National Finance Center, Collections Section, P.O. Box 68907, Indianapolis, Indiana 46268, or 6026 Lakeside Blvd., Indianapolis, Indiana 46278. Requests must include a check to cover the cost of the CD-ROMS requested. Actual costs and other specific information should be ascertained by contacting the Collections Section at (317) 614-4514. Bills for subscriptions will be issued monthly, with the first month's fee due in advance. Requested CD-ROMS will be mailed from the CBP Technology Support Center, first class, on the next business day after compilation. Parties desiring another form of delivery will have to make their own arrangements and notify CBP in advance. Subscriptions may be canceled provided CBP receives written notice at least 10 days prior to the end of the month. The CBP

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Technology Support Center must be notified in writing within seven days of technical problems with CD-ROMS or non-receipt of CD-ROMS in order to receive a replacement or credit towards future tape purchases. Refunds will not be provided. Information regarding the technical specifications of the CD-ROMS, problem CD-ROMS or the non-receipt of CD-ROMS should be directed to CBP Technology Support Center at 1-800-927-8729.

(3) *Data elements.* The following are the data elements from the AMS manifest which will be provided to the public via CD-ROMS:

1. Carrier code.
2. Vessel country code.
3. Vessel name.
4. Voyage number.
5. District/port of unloading.
6. Estimated arrival date.
7. Bill of lading number.
8. Foreign port of lading.
9. Manifest quantity.
10. Manifest units.
11. Weight.
12. Weight unit.
13. Shipper name.<sup>1</sup>
14. Shipper address.<sup>1</sup>
15. Consignee name.<sup>1</sup>
16. Consignee address.<sup>1</sup>
17. Notify party name.<sup>1</sup>
18. Notify party address.<sup>1</sup>
19. Piece count.
20. Description of goods.
21. Container number.
22. Seal number.

[T.D. 81-168, 46 FR 32565, June 24, 1981]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §103.31, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

#### **§103.31a Advance electronic information for air, truck, and rail cargo; Importer Security Filing information for vessel cargo.**

The following types of advance electronic information are per se exempt from disclosure under §103.12(d), unless CBP receives a specific request for such records pursuant to §103.5, and the owner of the information expressly agrees in writing to its release:

(a) Advance cargo information that is electronically presented to Customs

<sup>1</sup>Designates data element which will be deleted where confidentiality has been requested.

and Border Protection (CBP) for inbound or outbound air, rail, or truck cargo in accordance with §122.48a, 123.91, 123.92, or 192.14 of this chapter;

(b) Importer Security Filing information that is electronically presented to CBP for inbound vessel cargo in accordance with §149.2 of this chapter;

(c) Vessel stow plan information that is electronically presented to CBP for inbound vessels in accordance with §4.7c of this chapter; and

(d) Container status message information that is electronically presented for inbound containers in accordance with §4.7d of this chapter.

[CBP Dec. 08-46, 73 FR 71780, Nov. 25, 2008]

#### **§ 103.32 Information concerning fines, penalties, and forfeitures cases.**

Except as otherwise provided in these regulations or in other directives (including those published as Treasury Decisions), port directors and other Customs officers shall refrain from disclosing facts concerning seizures, investigations, and other pending cases until Customs action is completed. After the penalty proceeding is closed by payment of the claim amount, payment of a mitigated amount, or judicial action, the identity of the violator, the section of the law violated, the amount of penalty assessed, loss of revenue, mitigated amount (if applicable), and the amount of money paid may be disclosed to the public by the appropriate port director. Public disclosure of any other item of information concerning such cases, whether open or closed, shall only be made in conformance with the procedures provided in §103.5.

[T.D. 81-168, 46 FR 32565, June 24, 1981. Redesignated by T.D. 96-36, 61 FR 19838, May 3, 1996]

#### **§ 103.33 Release of information to foreign agencies.**

(a) The Commissioner or his designee may authorize Customs officers to exchange information or documents with foreign customs and law enforcement agencies if the Commissioner or his designee reasonably believes the exchange of information is necessary to—

(1) Ensure compliance with any law or regulation enforced or administered by Customs;